IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No. 4708 of 2005

Between:

Sri Bhaskara Beer and Wines, Kesavarao peta Village,
Etcherla Mandal, Srikakulam District,

Rep. by its Licencee J. Sankara Rao.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary,
Prohibition and Excise Department, Secretariat Buildings.
2 The Commissioner, Prohibition and Excise,

Andhra Pradesh, Hyderabad.
3 The Superintendent, Prohibition and Excise, Srikakulam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ order or direction declaring the notice in R.C.No. 156/2005/B3 dt.24-2-2005 issued by the 3rd Respondent as illegal, arbitrary and contrary to Andhra Pradesh Indian Liquor and Foreign Liquor Rules 1970 and consequently set aside the same.

Counsel for the Petitioner : MR.K.CHIDAMBARAM

Counsel for the Respondents : GP FOR PROHIBITION & EXCISE

The Court made the following :

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ORDER :

The petitioner filed the present writ petition assailing the order/notice dated 24-2-2005 issued by the third respondent. By the said notice, the petitioner was directed to pay the differential licence fee of Rs.4,50,000/- for the years 2002-03, 2003-04 and 2004-05, within seven days from the date of receipt of the said order.

This Court while admitting the writ petition passed interim orders of stay of the proceedings subject to the petitioner depositing 1/4th of the enhanced demand. When the Department moved application for vacating the stay, the matter was finally heard and is being disposed of finally with the consent of the parties.

The petitioner was granted IL-24 licence under Andhra Pradesh Indian Liquor and Foreign Liquor Rules, 1970 (for brevity 'the Rules') for running a Wine shop at Kesavaraopeta village, which is Hamlet of Shermahammadpuram Revenue Village in Srikakulam District. At the time of granting licence during the year 2002-03, as per Rule 25 of the Rules, treating Kesavaraopeta Village as an independent village with a population of less than 2,500 a licence fee of Rs.3,00,000/- was collected from the petitioner. The same situation continued for the subsequent three years. However, later it was noticed by the Department that Kesavaraopeta village is the Hamlet of Shermahammadpuram Revenue Village, which has the population of 11,166 as per 2001 census, therefore, the licence fee leviable is Rs.4,50,000/- per year. Accordingly the impugned notice was issued.

Learned counsel for the petitioner in this writ petition contends that Kesavaraopeta village was treated as a separate village at the time of grant of licence and based on the subsequent census, the licence fee cannot be enhanced. He, however, does not dispute that as per 2001 census, Shermahammadpuram Revenue Village consists of nine hamlet villages with a population of 11,166. In such situation, as held by this Court in **Tirumala Balaji Wines v. Commissioner of Prohibition and Excise, Hyderabad**, when different hamlet villages are included in one Revenue Village,

they cannot be treated as separate Revenue Villages for the purpose of Andhra Pradesh Districts (Formation) Act, 1974. In that view of the matter, I do not find any infirmity or irregularity in the action initiated by the third respondent to collect the differential licence fee.

It is brought to the notice of this Court that the petitioner has deposited an amount of Rs.1,12,500/- as per the interim directions of this Court. It is also informed that even for the year 2005-06 the petitioner was granted licence in Kesavaraopeta Village and the petitioner was made to pay huge amounts as initial fee. Therefore, so as to enable the petitioner to pay the remaining differential licence fee, six weeks time is granted and the petitioner is permitted to pay the balance of Rs.3,37,500/- in three fortnightly instalments, commencing from 1-7-2005. If the petitioner fails to pay the amount, it shall be open to the third respondent to take necessary action in accordance with law.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S. RAO, J.)

14-06-2005.

Msr.

To

1 The Government of Andhra Pradesh, Rep. by its Secretary,
Prohibition and Excise Department, Secretariat Buildings.
2 The Commissioner, Prohibition and Excise,

Andhra Pradesh, Hyderabad.
3 The Superintendent, Prohibition and Excise, Srikakulam.

4. 2 CCs to Government Pleader for Prohibition and Excise,

High Court Buildings, Hyderabad.

5 2 CD copies.

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.4708 of 2005

14-06-2005

(Msr)